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BEFORE THE

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

In the Matter of:

IntraLATA Competition

D. T. E. 94-185

REPLY BRIEF

of

THE UNITED STATES DEPARTMENT OF DEFENSE AND

ALL OTHER FEDERAL EXECUTIVE AGENCIES

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Untitled

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January 28, 2000

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I. INTRODUCTION

On November 2, 1998, the New England Telephone and Telegraph Co. d/b/a Bell Atlantic-Massachusetts ("BA-MA") completed a price floor compliance filing for intraLATA message telecommunications services ("MTS") in Massachusetts. The Department of Telecommunications and Energy ("Department") convened this proceeding to address the company's filing.

On June 7, 1999, the United States Department of Defense and All Other Federal Executive Agencies ("FEAs") prefiled testimony by an expert witness to address BA-MA's filing in view of the comments submitted on December 18, 1998 by AT&T Communications of New England ("AT&T"). The FEAs' testimony was entered into the record during the evidentiary hearings on September 15, 1999. On January 18, 2000, the FEAs filed an Initial Brief in this matter.

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As end users of telecommunications services in Massachusetts, the FEAs have two major concerns. First, the FEAs have a direct interest in the MTS rate schedules employed by all carriers that the Department has authorized to provide intraLATA services. Second, the FEAs have a vital interest in the development of more competition for all telecommunications services in the Commonwealth. These two goals are closely interleaved because the best way to achieve minimum prices is to take actions that will ensure a maximum amount of competition. The FEAs approach the issues raised by BA-MA's filing from this perspective.

II. IF THE DEPARTMENT DOES NOT REQUIRE A REDUCTION IN BELL ATLANTIC'S ACCESS CHARGES, IT SHOULD REJECT THE COMPANY'S PRICE CAP FILING.

With its price floor compliance filing, BA-MA submitted data on the revenues and costs for most of its intraLATA services, including Business MTS in both LATAs, Residence MTS in both LATAs, several residence optional calling plans, including Baystate Metropolitan Service, Business Link, and several other intraLATA toll services. These data purport to show that BA-MA's current MTS charges exceed the appropriate costs, including the imputation requirements for access charges.

The FEAs did not evaluate the accuracy of BA-MA's cost studies in its testimony. However, as end users seeking to maximize competition for telecommunications services in Massachusetts, the FEAs are concerned with a problem raised by one of BA-MA's principal competitors in providing interexchange services. In its comments on BA-MA's filing, AT&T explains that the spread between BA-MA's access charges and its retail message toll rates is so small that it is not possible for a firm to compete with that carrier in offering services to its own subscribers.

In its Initial Brief, the FEAs noted that "the evidence shows that competition cannot be sustained with the present margin between BA-MA's access charges and the company's retail rates." There are two alternative ways to increase the margin and thus allow competition to develop — (1) reject BA-MA's price floor filing, possibly requiring the company to increase charges for message toll services; or (2) require BA-MA to reduce access charges assessed on interexchange carriers. In its Initial Brief, the FEAs urged the Department to adopt the latter approach. The FEAs explained:

Reductions in access charges will also accomplish the objective of alleviating a price squeeze on competitive carriers, yet avoid an increase in intraLATA MTS charges by the principal carrier in Massachusetts. Indeed, a reduction in access charges will exert downward pressure on MTS rates, because all competitors will obtain the benefits of a decline in an important part of the cost of providing toll services to end users.

Thus, in addition to achieving a rate reduction for access services, the second approach avoids a rate increase for MTS, and will ultimately put downward pressure on MTS rates.

In its Initial Brief, BA-MA makes a single reference to the filing by the FEAs in this proceeding. BA-MA states, "While the Department of Defense raised other issues not appropriately addressed in this proceeding (i.e. access charge issues), it concludes that the Department should accept the Compliance Filing." This Statement references DOD Exhibit 1 at page 4, lines 8 through 10.

The purpose of this Reply Brief is to ensure that the Department, in view of BA-MA's highly selective reference to the FEAs' filing, does not infer that the FEAs recommend acceptance of the compliance filing without a concurrent reduction in access charges. At the place identified by BA-MA, the FEAs state:

Q. Should the Department accept the price floor computations provided by BA-MA as Ms. Brown recommends?

A. Yes. Based on the information I have reviewed, I have no dispute with BA-MA's filing per se.

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The cited material merely states that viewed in isolation, the FEAs have no objection to BA-MA's cost presentation.

In the first place, the FEAs do not concur with BA-MA's assertion that access charges are not "appropriately addressed" in this proceeding. Moreover, BA-MA's cost presentations should not be considered in isolation. The Department must evaluate BA-MA's compliance filing in the context of its impact on the development of competition for all telecommunications services in Massachusetts.

Regardless of the merits of the BA-MA's cost filing, the Department should not permit the company to stifle competition. Accordingly, if the Department does not order BA-MA to reduce access charges, the FEAs recommend rejection of the compliance filing. In no event, should the Department infer that the FEAs would urge the Department to accept BA-MA's filing without additional steps to allow competition to develop in Massachusetts.

### III. CONCLUSION

WHEREFORE, the premises considered, the U.S. Department of Defense and All Other Federal Executive Agencies urge the Department to adopt the recommendations set forth in this Reply Brief.

Respectfully submitted,

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